IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

MFA.No. 700 of 2000(B)

OPMV.84/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, OTTAPALAM
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APPELLANT:
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1. M. SAROJINI AMMA, W/O. P. BALAKRISHNAN NAIR,
AGED 53 YEARS, RESIDING AT BANGLAVIL HOUSE,
PATTAMBI ROAD, KOLAPULLY, SHORANUR,
OTTAPPALAM TALUK.

2. M. GOPALAKRISHNAN, S/O. LATE P. BALAKRISHNAN NAIR,
AGED 30 YEARS, -DO- -DO-.

3. DOCTOR INDIRADEVI, D/O. LATE P. BALAKRISHNAN NAIR,
AGED 42 YEARS, -DO- -DO-.

4. M.SULOCHANA, D/O. LATE P.BALAKRISHNAN NAIR,
AGED 39 YEARS, -DO- -DO-

5. M. JAYASREE, D/O. LATE P.BALAKRISHNAN NAIR,
AGED 36 YEARS, -DO- -DO-

6. SOBHA, D/O. LATE P. BALAKRISHNAN NAIR
AGED 33 YEARS. -DO- -DO-

7. M. GEETHA D/O. LATE P. BALAKRISHNAN NAIR,
AGED29 YEARS, -DO- -DO-

8. BINDU, D/O. LATE P. BALAKRISHNAN NAIR,
AGEED 27 YEARS, -DO- -DO-.

9. N. SINDHU, D/O. LATE P. BALAKRISHNAN NAIR
AGED 24 YERS, -DO- -DO-.

BY ADV. SRI.K.I.MAYANKUTTY MATHER

RESPONDENTS:
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1. L.JUDESAN VAZ, S/O. LAWRENCE VAZ,
   AGED ABOUT 35 YEARS, MERCY HOUSE,
   COOPERATIVE COLONY, VALPURA, POLLACHI.

2. PROPRIETOR, QUALITY LEATHERS,
   ANAMALA JUNCTION, CHALAKUDY P.O.
   THRISSUR DIST.

3. THE ORIENTAL INSURANCE CO., LTD.,
   BRANCH OFFICE AT MATTANCHERRY,
   COCHIN-2.

R3 BY ADV. DR.ELIZABETH VARKEY

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 15/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K. HEMA, JJ.

M.F.A. No.700 of 2000 B

Dated this 15th day of October, 2007

JUDGMENT

Koshy,J:

A 23 year old student of Ayurvedic medicine died in a motor accident and his parents claimed Rs.13,66,432/- as compensation. The Tribunal found that the accident occurred due to the negligence of the first respondent driver of the vehicle owned by the 2nd respondent. The vehicle was insured with the 3rd respondent Insurance company. According to the claimants, deceased was a degree student of Ayurvedic medicine at Madras. His father was an Ayurvedic doctor and his sister was also practising as an Ayurvedic doctor and, if he had passed the course, he would have got at least Rs.9000/- as monthly income whereas, respondents contended that since he was not having any job at the time of accident and accident occurred in 1995 only notional income of Rs.1250/- can be taken for the purpose of calculation. Considering the fact that he was a student of Ayurvedic medicine and the occupation of his father, sister etc. Tribunal fixed Rs.3000/- as the notional monthly income. 1/3rd was deducted for

personal expenses. Thus, Rs.2000/- was taken as the monthly loss of dependency to parents. Since he was unmarried, the Tribunal has taken the age of the claimants for finding the multiplier and 11 was fixed as the multiplier as the mother was 53 years old. We also notice that his father died during the pendency of the claim petition before the Tribunal. Considering the age of the mother, the multiplier of 11, adopted by the Tribunal cannot be taken as illegal. The compensation for loss of dependency was assessed at Rs.2,64,2000/-. Apart from the above, the Tribunal granted a sum of Rs.14,500/- as compensation under specified head provided under Second Schedule of Section 163A of the M.V. Act.

2. The appellants have brought up deceased and he was a brilliant student. He died at the age of 22 years . For loss of love and affection Rs.10,000/- ought to have been granted. He died not immediately. For pain and suffering a sum of Rs.10,000/- can be granted. Even though the accident occurred at Shoranur, he was taken to Thrissur and dead body had to be carried back to his native place. So, Rs.3000/- can be granted for transportation expenses and another Rs.3000/- can be granted for funeral expenses. It is true that only Rs.4500/- was the medical bill and that was reimbursed. We are of the opinion that in a hospital an emergency treatment is taken,

there must be many expenses which are not covered by actual medical bills. At least Rs.7500/- ought to have been granted for the medical expenses as life saving medicines were given. Apart from the dependency compensation, the claimants are entitled to Rs.33,500/-. The Tribunal has granted Rs.19500/- over and above dependency Compensation. Therefore, additional compensation payable is Rs.14,000/-. The above Rs.14,000/- should be deposited by the 3rd respondent Insurance Company with 8% interest from the date of application till its deposit. On deposit of the amount, first appellant is entitled to withdraw the same.

J.B. KOSHY, JUDGE.

K. HEMA, JUDGE.

Krs.

J.B.KOSHY & K. HEMA, JJ.

M.F.A. No.700 of 2000B

Dated this 15th day of October, 2007

JUDGMENT